

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA (PITTSBURGH)**

REBECCA J. ZEMLOCK,

Plaintiff,

V.

EQUIFAX INFORMATION SERVICES
LLC; EXPERIAN INFORMATION
SOLUTIONS, INC.; TRANS UNION
LLC; and GENERAL AUDIT CORP. d/b/a
KEYBRIDGE MEDICAL REVENUE
MANAGEMENT;

Defendants.

CASE NO. 2:21-cv-00247-NR

Judge J. Nicholas Ranjan

ANSWER AND AFFIRMATIVE DEFENSES

NOW COMES Defendant Experian Information Solutions, Inc. (“Experian”), by and through its undersigned counsel, submits the following answer to the Plaintiff’s Complaint.

Unless otherwise specified, each paragraph responds to the corresponding paragraph of Plaintiff's Complaint.

RESPONSE TO PRELIMINARY STATEMENT

1. Experian admits that Plaintiff brings his action under the Fair Credit Reporting Act, 15 U.S.C. § 1681 *et seq.* Experian states that this is a legal conclusion that is not subject to denial or admission. Except as specifically admitted, Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations and on that basis denies, generally and specifically, each and every remaining allegation.

RESPONSE TO PARTIES

2. Experian admits that 15 U.S.C. § 1681a(c) defines a “consumer” as “an individual.” Except as specifically admitted, Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations and on that basis denies, generally and specifically, each and every remaining allegation.

3. Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations and on that basis denies, generally and specifically, each and every allegation.

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5. Experian admits that it is an Ohio Corporation, with its principal place of business in Costa Mesa, California. Experian further admits that it is qualified to do business and conducts business in the Commonwealth of Pennsylvania. Experian further admits that it is a “consumer reporting agency” as defined by 15 U.S.C. § 1681a(f). Except as specifically admitted, Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations and on that basis denies, generally and specifically, each and every remaining allegation.

6. Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations and on that basis denies, generally and specifically, each and every allegation.

RESPONSE TO FACTUAL ALLEGATIONS

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RESPONSE TO DEMAND FOR JURY TRIAL

74. Experian admits that Plaintiff demands a trial by jury on all issues so triable.

**RESPONSE TO COUNT I – VIOLATIONS OF THE FCRA AGAINST EQUIFAX,
EXPERIAN, AND TRANS UNION**

75. Experian states that this allegation contains legal conclusions for which no response is required. To the extent a response is required, Experian is without knowledge or information sufficient to form a belief as to the truth of these allegations and on that basis denies, generally and specifically, each and every allegation.

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RESPONSE TO PRAYER FOR RELIEF

Experian denies the allegations contained in the unnumbered paragraph beginning underneath the “WHEREFORE” heading and each of its subparts, and specifically denies that Plaintiff is entitled to judgment against, or any relief whatsoever from, Experian in this action.

RESPONSE TO COUNT II – VIOLATIONS OF THE FCRA AGAINST KEYBRIDGE

80. Experian states that this allegation contains legal conclusions for which no response is required. To the extent a response is required, Experian is without knowledge or information sufficient to form a belief as to the truth of these allegations and on that basis denies, generally and specifically, each and every allegation.

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RESPONSE TO PRAYER FOR RELIEF

Experian denies the allegations contained in the unnumbered paragraph beginning underneath the “WHEREFORE” heading and each of its subparts, and specifically denies that Plaintiff is entitled to judgment against, or any relief whatsoever from, Experian in this action.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE
(Failure to State a Claim)

84. The Complaint herein, and each cause of action thereof, fails to set forth facts sufficient to state a claim upon which relief may be granted against Experian and further fails to state facts sufficient to entitle Plaintiff to the relief sought, or to any other relief whatsoever from Experian.

SECOND AFFIRMATIVE DEFENSE
(Truth/Accuracy of Information)

85. All of Plaintiff’s claims against Experian are barred because all information Experian communicated to any third person regarding Plaintiff was true.

THIRD AFFIRMATIVE DEFENSE
(Indemnification)

86. Any purported damages allegedly suffered by Plaintiff are the result of the acts or omissions of third persons over whom Experian had neither control nor responsibility.

FOURTH AFFIRMATIVE DEFENSE
(Failure to Mitigate Damages)

87. Plaintiff has failed to mitigate her damages.

FIFTH AFFIRMATIVE DEFENSE
(Contributory/Comparative Fault)

88. Any alleged damages sustained by Plaintiff was, at least in part, caused by the actions of Plaintiff and resulted from Plaintiff's own negligence which equaled or exceeded any alleged negligence or wrongdoing by Experian.

SIXTH AFFIRMATIVE DEFENSE
(Estoppel)

89. Any damages which Plaintiff may have suffered, which Experian continues to deny, were the direct and proximate result of the conduct of Plaintiff. Therefore, Plaintiff is estopped and barred from recovery of any damages.

SEVENTH AFFIRMATIVE DEFENSE
(Independent/Intervening Cause)

90. Plaintiff's alleged damages were not caused by Experian, but by an independent intervening cause.

EIGHTH AFFIRMATIVE DEFENSE
(Statute of Limitations)

91. All or part of the claims for relief in the Complaint herein are barred by the applicable statutes of limitation, including but not limited to 15 U.S.C. § 1681p.

NINTH AFFIRMATIVE DEFENSE
(Failure to Join Indispensable Parties)

92. Plaintiff has failed to join all necessary and/or indispensable parties to this suit.

TENTH AFFIRMATIVE DEFENSE
(Qualified Immunity)

93. All of Plaintiff's claims against Experian are barred by the qualified immunity of 15 U.S.C. § 1681h(e).

ELEVENTH AFFIRMATIVE DEFENSE
(Unclean Hands)

94. The Complaint, and each claim for relief therein that seeks equitable relief, is barred by the doctrine of unclean hands.

TWELFTH AFFIRMATIVE DEFENSE
(Laches)

95. The Complaint and each claim for relief therein is barred by laches.

THIRTEENTH AFFIRMATIVE DEFENSE
(Right to Assert Additional Defenses)

96. Experian reserves the right to assert additional affirmative defenses at such time and to such extent as warranted by discovery and the factual developments in this case.

WHEREFORE, Defendant Experian Information Solutions, Inc. prays as follows:

- (1) That Plaintiff take nothing by virtue of the Complaint herein and that this action be dismissed in its entirety;
- (2) For costs of suit and attorneys' fees herein incurred; and
- (3) For such other and further relief as the Court may deem just and proper.

Dated: March 3, 2021

Respectfully submitted,

/s/ Scott B. Scheinberg

Scott B. Scheinberg, Esq. (PA ID 323255)

JONES DAY

500 Grant St., Suite 4500

Pittsburgh, PA 15219

Email: sscheinberg@jonesday.com

Counsel for Defendant

Experian Information Solutions, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on March 3, 2021, I electronically filed a true and correct copy of DEFENDANT EXPERIAN INFORMATION SOLUTIONS, INC.'S ANSWER AND AFFIRMATIVE DEFENSES with the Clerk of Court using the CM/ECF system, which will automatically send notification of such filing to the following:

Gregory T. Artim, Esq.
1751 Lincoln Highway
North Versailles, PA 15137
Counsel for Plaintiff

Respectfully submitted,

/s/ Scott B. Scheinberg
Scott B. Scheinberg, Esq. (PA ID 323255)
JONES DAY
500 Grant St., Suite 4500
Pittsburgh, PA 15219
Email: sscheinberg@jonesday.com

Counsel for Defendant
Experian Information Solutions, Inc.